

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD YOUNG,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 03-551
)	Judge Joy Flowers Conti/
JEFFREY BEARD, Commissioner)	Magistrate Judge Amy Reynolds Hay
of Corrections-Official-)	
Individual Capacity, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

The plaintiff, Richard Young, filed an action in the above-captioned case, asserting that he complained to defendants Kerns and Kolli, psychiatrists at SCI Pittsburgh, about the stress of having been placed in segregation, i.e., solitary confinement, and asked them to place him in the mental health unit instead of segregation or to transfer him to another prison. He asserts that the doctors told him he was doing well and refused his requests in violation of his Eighth Amendment right to be free from cruel and unusual punishment. Additionally, he claims that Dr. Kolli placed him in a filthy, bare cell after he threatened to harm himself and, thus, violated his Eight Amendment right to be free from cruel and unusual punishment.

Doctors Kern and Kolli filed motions to dismiss the action and the United States Magistrate Judge issued a Report and Recommendation (doc. no. 161) recommending that the court should

grant these motions upon plaintiff's failure to establish that he was suffering from a "serious" medical need and that the defendants were deliberately indifferent to this need.

Plaintiff filed Objections to the Report and Recommendation. Plaintiff complains in his Objections that he was sent to solitary confinement based upon falsified misconducts. This Objection lacks merit since the decision to place the plaintiff in solitary is not alleged to be and could not be attributable to defendants Kern and Kolli. Further this court previously addressed and decided his claim of falsified reports and found against the plaintiff (see doc. nos. 124 & 130).

Plaintiff also objects that the court previously decided Dr. Kolli's motion to dismiss and then accorded him a second opportunity to file the same motion, causing judicial delay. This Objection lacks merit since plaintiff is mistaken on the facts: the previous Report and Recommendation (doc. no. 124) specifically noted that the recommendation concerned all of the Commonwealth Defendants except Drs. Kern and Kolli.

In his Objections, plaintiff reargues that he suffers from severe chronic depression / major depressive disorder / with mixed personality, caused by his placement in segregated housing, and that records from his current institution would demonstrate his condition, but he is unable to obtain them. Whatever these records might show, his complaint concerns actions taken by

defendants while plaintiff was incarcerated at SCI Pittsburgh and, thus, the records from his current location, SCI Fayette, would seem to be irrelevant to the matter at hand.

Accordingly, upon consideration of the aforementioned Objections, and upon independent review of the motions and the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the Motions to Dismiss (doc. nos. 136 & 144) filed by defendants Kern and Kolli are GRANTED.

IT FURTHER APPEARING that plaintiff has now moved to withdraw the sole remaining claim in the case, IT IS HEREBY ORDERED that the motion (doc. no. 167) is GRANTED.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if plaintiff desires to appeal from this Order he must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

SO ORDERED this 20th day of July, 2006.

/s/ Joy Flowers Conti
JOY FLOWERS CONTI
United States District Judge

cc: Honorable Amy Reynolds Hay
United States Magistrate Judge

cc: Richard Young
EP-8117
SCI Fayette
50 Overlook Drive
LaBelle, PA 15450-1050

Mary Lynch Friedline
Deputy Attorney General
Office of Attorney General
6th Floor, Manor Complex
564 Forbes Avenue
Pittsburgh, PA 15219

Samuel H. Foreman, Esq.
WEBER, GALLAGHER, SIMPSON, STAPLETON, FIRES & NEWBY
603 Stanwix Street
Suite 1450, 14th Floor
Pittsburgh, PA 15222

Alan S. Gold, Esq.
GOLD, BUTKOVITZ & ROBINS
7837 Old York Road
Elkins Park, PA 19027